



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.15125 of 2020

Manoharan

... Petitioner

Vs

1. The Commissioner,
Tiruchirappalli City Corporation,
Trichy.

2. The Member Secretary,
Trichy Town and Country Planning Authority,
Hajamalai, Trichy.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to convert the plot No.38, comprised in T.S.Nos.36/2 and 37/1, situated at Municipal Ward No.3, Vellithirumutham Village, Sreirengam Taluk, Trichy District, as residential plot instead of plot reserved for private nursery school, in light of in circular of the Director, Town and Country Planning in ROC No.2165/91-LA1, dated 25.06.1991 and direct the first respondent to refund the amount of a sum of Rs.1,34,276/- which was unauthorizedly collected from the petitioner, on the basis of the petitioner's representation dated 01.07.2020.

For Petitioner	: Mr.T.Vadivelan
For R-1	: Mr.Saji Bino Standing Counsel
For R-2	: Mr.C.Ramesh Special Government Pleader

ORDER

(This Petition was heard through the Video Conferencing)

This Writ Petition has been filed for a Mandamus seeking for a direction to the respondents to consider the petitioner's representation dated 01.07.2020, seeking for permission to convert Plot No.38, comprised in T.S.Nos.36/2 and 37/1, situated at Municipal Ward No.3, Vellithirumutham Village, Sreirengam Taluk, Trichy District, into a residential plot, instead of a private nursery school, in the light of the circular of the Director of Town and Country Planning, in ROC No.2165/91-LA1, dated 25.06.1991 and also to direct the first respondent to refund a sum of Rs.1,34,276/-, which according to the petitioner, was unauthorizedly collected from him.



2. Mr.Saji Bino, learned Standing counsel accepts notice on behalf of the first respondent and Mr.C.Ramesh, learned Special Government Pleader accepts notice on behalf of the second respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

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3. Heard Mr.T.Vadivelan, learned counsel appearing for the petitioner and Mr.Saji Bino, learned Standing counsel appearing for the first respondent and Mr.C.Ramesh, learned Special Government Pleader appearing for the second respondent.

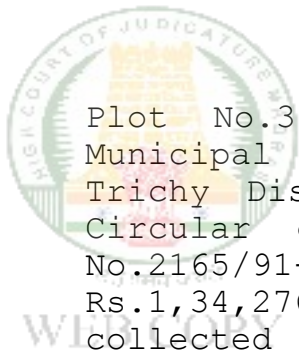
4. It is the case of the petitioner that the aforementioned plot measuring to an extent of 2400 Square Feet under the approved layout was allotted for starting a private nursery school. According to the petitioner, one Natarajan, was the original owner of the aforementioned plot and he sold the said plot to the petitioner under a registered sale deed dated 18.02.2008. It is the case of the petitioner that he is in absolute possession and enjoyment of the property ever since his purchase. It is the case of the petitioner that the Director of Town and Country Planning Authority, Chennai, has issued a Circular in ROC No.2165/91-LA1, dated 25.06.1991, which permits the conversion of lands allotted to Kalyanamandapam, Community Hall, School, Shops etc into residential plots.

5. According to the petitioner, even though he had purchased the aforementioned plot in the year 2008 itself, till date, no private nursery school has been constructed in the said plot as per the approved layout. In such circumstances, he has applied for conversion of Plot No.38 into a residential plot instead of primary nursery school as per the approved layout.

6. It is also the case of the petitioner that he is unable to get building plan approval for his residential house due to the non conversion of the plot into a residential plot. It is also the case of the petitioner that the second respondent instructed him to pay the registration charges for the purpose of passing a conversion order.

7. According to him, he paid a sum of Rs.1,11,480/- on 17.10.2018 towards development charges for regularization and a sum of Rs.500/- for application fee and a sum of Rs.22,296/- towards plot regulation fee to the first respondent. It is the case of the petitioner that despite the payment of the aforementioned charges on 17.10.2018, till date, the respondents have not issued conversion orders for converting the plot allotted for private nursery school into a residential plot.

8. It is the case of the petitioner that he gave a representation on 01.07.2020 requesting the respondents to convert



Plot No.38, comprised in T.S.Nos.36/2 and 37/1, situated at Municipal Ward No.3, Vellithirumutham Village, Srengam Taluk, Trichy District, into a residential plot, in the light of the Circular of the Director, Town and Country Planning in ROC No.2165/91-LA1, dated 25.06.1991 and to refund a sum of Rs.1,34,276/-, which according to the petitioner, was wrongly collected from him, by the first respondent. According to the petitioner, till date, the said representation has not been considered by the respondents. In such circumstances, this Writ Petition has been filed.

9. The learned counsel appearing for the petitioner drew the attention of this Court to the Circular issued by the Director, Town and Country Planning Authority, in ROC No.2165/91-LA1, dated 25.06.1991, which reads as follows:-

"Office of the Director of Town and Country Planning, No.807, Anna Salai, Madras-600 003.
ROC.No.2165/91-LA1

CIRCULAR

Sub: Town and Country Planning-Preparation of layout-Reservation of land for public purpose-Conversion of such salable uses into residential plots-Instruction-Regarding.

While approving the layout 10% of the area is reserved for parks and open spaces besides 1% reservation for local shopping areas and wherever the extent of layout is less than 3000 Sq. Meters the reservation is confined to local shop only. In larger layouts, reservations are also made for public purpose like Community Centre, Kalyanamandapam, School, etc.

Experience has shown that such reserved salable land like Kalayanamandapam, Schools, Shops, etc., are being converted as residential plots, due to the fact that there is no demand for such use as reserved in the layout and effectively used and consequently number of cases are received from layout owners for conversion of such salable reserved uses into residential plots.

This matter was discussed during the officers meeting held at the Directorate on 06.05.1991. It was pointed out that such reserved uses are allowed for conversion into residential plots after one year from the date of approval, by Madras Metropolitan Development Authority.

Keep in this aspect in view it was decided that if there is no demand for such salable public purposes like Kalyanamandapam, Community Hall, School, Shops, etc.,



for five years the layout owners may be permitted to seek conversion of such salable public purposes into residential plots and such request from the layout owners may be considered favourably by this Directorate. The 10% open space however, has to be handed over to the local body by a gift deed.

This may be treated as a guideline for dealing with such cases."

10. It is the case of the petitioner that he purchased Plot No.38 on 18.02.2008. It is also his case that originally under the approved layout, the said plot was allotted for putting up a private nursery school. It is also his case that no nursery school has been constructed over the said plot ever since the approval of the layout. The petitioner has sought for conversion of plot into a residential plot in the light of the aforementioned circular. He has also given a representation on 01.07.2020 to the respondents for conversion of the plot into a residential plot. No prejudice will be caused to the respondents, if the representation dated 01.07.2020, seeking for conversion of Plot No.38, into a residential plot, is considered on merits and in accordance with law, in the light of the aforementioned circular.

11. For the foregoing reasons, this Court directs the respondents to consider the petitioner's representation dated 01.07.2020, seeking for conversion of Plot No.38, comprised in T.S.Nos.36/2 and 37/1, situated at Municipal Ward No.3, Vellithirumutham Village, Srirengam Taluk, Trichy District, into a residential plot, from a plot meant for a private nursery school, in the light of the circular of the Director, Town and Country Planning in ROC No.2165/91-LA1, dated 25.06.1991 and also consider the petitioner's request to refund a sum of Rs.1,34,276/- which according to him was unauthorizedly collected from the petitioner by the first respondent and pass final orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

12. With the aforesaid directions, the Writ Petition stands disposed of. No costs.

Sd/-

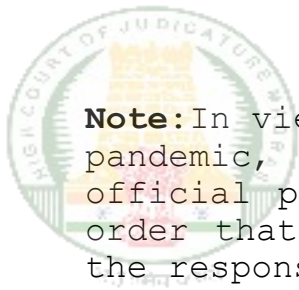
Assistant Registrar (C.O)

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Sub Assistant Registrar(CS)

tsg



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

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To

1. The Commissioner,
Tiruchirappalli City Corporation,
Trichy.
2. The Member Secretary,
Trichy Town and Country Planning Authority,
Hajamalai, Trichy.

+1 CC to Mr.S.SAJI BINO, Advocate SR-21053.

W.P. (MD) No.15125 of 2020
02.11.2020

SRK(CO)
CS(11.11.2020) 5P 4C